

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 786-2259

Granted Appeal Summary

Case

CANDY EUBANK, ET AL. v. SUE K. THOMAS, ET AL.
(Record Number 201118)

From

Circuit Court of Mathews County; W. Shaw, III, Judge.

Counsel

Brenton J. Bohannon (Bohannon & Associates, PLLC) for appellant.

David P. Corrigan, Saemi Murphy, George A. Somerville (Harman, Claytor, Corrigan & Wellman) for appellee.

Assignments of Error

2. The Court erred by granting Defendants' Demurrer for the malicious prosecution claim by ruling that probable cause existed because of the "thing decided" doctrine. The only issue before the Circuit Court in considering the demurrer was whether the complaint stated a prima facie cause of action, not whether some defense might be available to defeat the cause of action.
3. The doctrine of "a thing decided" does not unequivocally create probable cause when the existence of further facts would lead a reasonable person to believe otherwise and is at minimum a question for the trier of fact.
4. The Court erred by granting Defendants' Demurrer for the abuse of process claim by ruling that there are no facts to suggest that Defendants abused the process after taking out the charging documents.